

Zelmer Hyden

deposition

April 27, 2006

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CHARLIE J. DAVIS, JR.,

Plaintiff,

vs.

ZELMER HYDEN, et al.,

Defendants.

\_\_\_\_\_)  
NO: A02-0214 CV (JKS)

DEPOSITION OF ZELMER HYDEN

THURSDAY, APRIL 27, 2006, 9:28 a.m.

Anchorage, Alaska

Exhibit 12  
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<p style="text-align: right;">Page 2</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF ALASKA 3 4 CHARLIE J. DAVIS, JR., 5 Plaintiff, 6 vs. 7 ZELMER HYDEN, et al., 8 Defendants.</p> <hr/> <p>9 NO: A02-0214 CV (JKS)</p> <p>10 11 12 13 DEPOSITION OF ZELMER HYDEN, taken on behalf 14 of Plaintiff, Pursuant to Notice, at MATTHEWS &amp; 15 ZAHARE, 431 West Seventh Avenue, Anchorage, Alaska, 16 before Susan Campbell, Certified Shorthand Reporter 17 for Alaska Stenotype Reporters and Notary Public for 18 the State of Alaska.</p> <p>19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX 2 EXAMINATION BY: PAGE 3 Mr. Matthews 5 4 5 EXHIBITS 6 NUMBER PAGE 7 1 Palmer Correctional Center Staffing - 17 8 1 page 9 10 2 Responses to Discovery Requests - 16 27 11 pages 12 3 Verification - 1 page 29 13 4 Prisoner Grievance - 4 pages 47 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 A-P-P-E-A-R-A-N-C-E-S 2 3 For Plaintiff: MATTHEWS &amp; ZAHARE BY: THOMAS A. MATTHEWS 4 431 West Seventh Avenue Suite 207 5 Anchorage, AK 99501 6 7 For Defendants: STATE OF ALASKA ATTORNEY GENERAL'S OFFICE 8 Department of Law Criminal Division BY: MARILYN J. KAMM 9 P.O. Box 110300 Juneau, AK 99811 10 11 Reported By: Susan Campbell 12 Certified Shorthand Reporter 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 ANCHORAGE, AK, THURSDAY, APRIL 27, 2006, 9:28 a.m. 2 ZELMER HYDEN, 3 called as a witness on behalf of the 4 Plaintiff, having been duly sworn upon 5 oath by Susan Campbell, Notary Public, 6 was examined and testified as follows: 7 EXAMINATION 8 BY MR. MATTHEWS: 9 Q. Would you state your name for the record, 10 please? 11 A. Okay. First name is Zelmer, Z-e-l-m-e-r. 12 Last name is Hyden, H-y-d-e-n. 13 Q. Could you give us an address, please? 14 A. P. O. Box 536, Sutton, Alaska 99674. 15 Q. Do you have telephone number out there? 16 A. 746-0336. 17 Q. How long have you lived in Sutton? 18 A. Oh, about seven, eight years. 19 Q. Ever had a deposition taken before? 20 A. Negative. 21 Q. Let me tell you briefly then just a couple 22 of the ground rules. I'm going to try and ask 23 questions clearly and intelligently. Sometimes I do. 24 Sometimes I don't. If you don't understand my 25 question for any reason, please let me know and I'll</p>

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1 individual who would be in charge?

2 **A. I really don't know how to answer that. I**

3 **know that Hughes and Hale were the two PAs. I would**

4 **have to say those two. Now, they work a week on and a**

5 **week off, because they cover 12 hours. And so I**

6 **couldn't answer specifically. Maybe Mel Henry or the**

7 **people -- but I would say if I had to give you an**

8 **answer, it would be Hale and Hughes and not one or the**

9 **other. They were equals, as I understood.**

10 **Q. They didn't work at the same time, right?**

11 **A. No.**

12 **Q. So Hale and Hughes were working 12-hour**

13 **shifts what, seven days a week?**

14 **A. Yes.**

15 **Q. And that shift would have run during the**

16 **daytime?**

17 **A. They would have been there daytime hours,**

18 **correct. And I don't know what the specific hours**

19 **were.**

20 **Q. 7:00 to 7:00 or something like that?**

21 **A. Yeah, something like that.**

22 **Q. And how about the nurses that are listed**

23 **underneath there, do you know what kind of shifts they**

24 **would have run?**

25 **A. You know, medical staff changed a couple of**

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1 **times. And I'm not sure. But as what I remember is**

2 **they also worked a week on and a week off. So there**

3 **was a nurse there for 12 hours. And then there was --**

4 **there were -- and I don't know exactly what their**

5 **hours were.**

6 **Q. During 2002 can you tell me how many medical**

7 **staff would typically be on duty during the daytime?**

8 **A. During the daytime? That building was a**

9 **good ways from my office. Usually when I would go**

10 **over there, you would always see a PA during the day,**

11 **at least one nurse. And, of course, the dental people**

12 **was right adjacent to them. There would usually be**

13 **two dental people there.**

14 **Q. So a PA and a nurse --**

15 **A. So you'd see -- as a rule, you'd see a nurse**

16 **and a PA.**

17 **Q. How about during the nighttime hours?**

18 **A. During the nighttime hours, it was my**

19 **understanding that they had their shifts set to where**

20 **they could do the last med pass; however, there were**

21 **some inmates that might have had meds later in the**

22 **evening. And it's my understanding that in some**

23 **cases, inmates were allowed to carry these meds and do**

24 **self-administration of their own drugs.**

25 **And probably in some cases -- and I don't**

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1 **know which ones -- the officers might pass out already**

2 **packaged and -- you know, this inmate gets this out of**

3 **this packet at this time. And those officers had some**

4 **training to do that. Every officers didn't do it.**

5 **There was only a few that had that specific training**

6 **to handle that in the times when medical wasn't there.**

7 **Q. Are you talking about correctional officers?**

8 **A. Correct.**

9 **Q. Do you know who the correctional officers**

10 **were that had that training during 2002?**

11 **A. I wouldn't try to guess. It's too far.**

12 **Q. Were those officers who reported to you?**

13 **A. They reported to their shift supervisor who**

14 **reported to the assistant superintendent who reported**

15 **to me.**

16 **Q. So typically, then, during 2002, was there a**

17 **medical person on duty during the evening hours,**

18 **nighttime hours?**

19 **MS. KAMM: And what are the nighttime hours?**

20 **BY MR. MATTHEWS:**

21 **Q. 7:00 p.m. to 7:00 a.m.**

22 **A. There was a period of time when there was**

23 **not medical people on-site. Okay. I don't know what**

24 **time that was. I don't know what their hours were.**

25 **Couldn't even begin to guess. But there was a period**

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1 **of time where if there's an emergency, you need to**

2 **call the ambulance or the PAs were on-call, you know,**

3 **they -- they had a State car and were to, boom, here**

4 **we come. So that was how it was done.**

5 **Q. Who set those shifts?**

6 **A. I'm -- I have to assume. And I do not know**

7 **the answer to that. I assume Mel Henry. It certainly**

8 **wasn't me.**

9 **Q. Is it fair to say then that during a 24-hour**

10 **day, typically, during 2002, there was a period of**

11 **time where there was no medical person physically**

12 **on-site?**

13 **A. Physically on-site?**

14 **Q. Physically on-site.**

15 **A. That is probably correct.**

16 **Q. The daytime hours would be predominantly**

17 **covered, but not the night?**

18 **A. The daytime hours, there would be somebody**

19 **there, yes.**

20 **Q. But during the nighttime hours --**

21 **A. And I do know that even through that last**

22 **pill pass at like 6:00, you know, around meal time,**

23 **they were there. What time that they left, I do not**

24 **know.**

25 **Q. And that was -- that would be a better**

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1 question for Mel Henry?

2 A. Exactly. Because I could try to answer  
3 something regarding their staffing and stuff, it would  
4 be in error. I really -- because they didn't work for  
5 me specifically, there was a lot I did not know.

6 Q. And that's fair enough. I'm not looking for  
7 your guess. Just if you know the answer, please tell  
8 me.

9 You mentioned that there were some of the  
10 COs who were trained to give out medication.

11 A. Yes.

12 Q. And you don't know the names, offhand?

13 A. I don't have a clue.

14 Q. Do you know what training they had?

15 A. The -- I believe they got the training from  
16 the people at Central, the pharmacists, et cetera,  
17 et cetera, who would actually know how to do this.  
18 And that's an assumption on my part. But I do know  
19 they received training. And I'd have to say I don't  
20 know who did it, who did the training. I would assume  
21 it was the Central people.

22 Q. Or what it consisted of?

23 A. Or -- I don't know what it consisted of. I  
24 have no idea.

25 Q. Again, do you think that's a better question

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1 So a superintendent's contact, actual  
2 contact with a prisoner, you would have to actually go  
3 to, whether it be medium facility or minimum facility,  
4 to have contact. And usually, I would have some  
5 contact with different prisoners on Friday. And that  
6 was during the inspection.

7 Q. Just so that I'm clear in understanding, you  
8 said that there's medium facility and a minimum  
9 facility.

10 A. Right.

11 Q. I take it Palmer is structured -- there are  
12 physically different buildings on the grounds, right?

13 A. Yes, yes.

14 Q. And what are those different buildings  
15 called?

16 A. Okay. There's the administration building.  
17 And it is -- is by itself. Then there's Palmer  
18 Minimum, which consists of a number of buildings.  
19 It's an area that is not fenced. There are minimum  
20 custody inmates. And there's -- with minimum comes  
21 several shops, you know, for prisoners to work in,  
22 auto shops, the ACI shop that we talked about up here  
23 in this org chart, the living -- big living unit. And  
24 then there was what we called the program building  
25 where the cafeteria, education, medical, all these

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1 to ask Mel Henry?

2 A. Absolutely.

3 Q. Let me ask you about Charlie Davis. Do you  
4 remember Mr. Davis?

5 A. I remember Mr. Davis.

6 Q. Do you remember what contact you  
7 individually had with Mr. Davis?

8 A. I remember seeing him on the grounds. And  
9 the reason I remember him -- and I could be in error.  
10 It could be someone else. But I remember an  
11 individual who had a cane. And never had a problem  
12 with him or anything of that nature. But an inmate  
13 with a cane kind of sticks out in my mind.

14 Q. And you're assuming that that's Mr. Davis?

15 A. I have to assume that, yes.

16 Q. Why is it that you make that assumption?

17 A. Because that's -- that's in my memory as of  
18 four years ago. And you have to remember, you know, I  
19 got 500 inmates there. Does this one have a hangnail?  
20 Does this one have this? Does this one have that?  
21 When you go around inspections on Friday, that's when  
22 you actually get to see the prisoners and have  
23 interactions with them. The rest of the time, the  
24 administration building is, you know, a couple blocks  
25 away from the facility.

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1 different areas was.

2 And then within the confines of the fence  
3 was the medium facility. And there were -- it was --  
4 it was made up of seven houses. And in the main  
5 building, which had the gym, the dining room,  
6 et cetera, medical and so -- there was numerous  
7 buildings. I'd have to sit here and -- there's a lot  
8 of them.

9 Q. Your office was in a separate administration  
10 building, right?

11 A. I was in the administration building, yes.

12 Q. Was that inside or outside the fence?

13 A. Outside the medium fence. Minimum doesn't  
14 have a fence.

15 Q. Where was Mr. Davis housed?

16 A. They all go to medium when they first  
17 arrive. And once again, I may not be sure who  
18 Mr. Davis is. I believe -- and you can't hold me to  
19 this -- I believe he also went to minimum as well --

20 Q. Okay.

21 A. -- from medium, which would be a  
22 progression, you know, if your custody allows it. You  
23 always go to medium until we get to know a little bit  
24 about the prisoner and make sure he's not the new  
25 Charles Manson or something. And then if they are

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<p>1 doing fine, then as the classification merits, they</p> <p>2 can go on across the street.</p> <p>3 Q. So your memory of Mr. Davis, if it's the</p> <p>4 person you're thinking of, is seeing him out in the</p> <p>5 yard walking with a cane.</p> <p>6 A. That's the memory that I have of Mr. Davis,</p> <p>7 if I'm correct.</p> <p>8 Q. The individual that you are picturing, can</p> <p>9 you describe him other than a cane?</p> <p>10 A. Sandy hair, if I remember correctly.</p> <p>11 Probably about my height. Wasn't a very large fellow.</p> <p>12 Q. How tall are you, just so we're clear?</p> <p>13 A. Five seven and a half, maybe, five eight.</p> <p>14 Seems like he might have walked with a limp. That's</p> <p>15 about the best I can do for you.</p> <p>16 Q. Beard, facial hair?</p> <p>17 A. Don't know. Don't know.</p> <p>18 Q. Other than the observation of an individual</p> <p>19 with a cane, do you remember any individual contact</p> <p>20 that you had with Mr. Davis?</p> <p>21 A. I don't recall any contact with Mr. Davis</p> <p>22 other than just seeing him in the yard and when he</p> <p>23 filled out the grievance, you know, and --</p> <p>24 Q. Which we'll get to in a moment.</p> <p>25 A. That's probably about it. We could have had</p>	<p>1 through. Each room is graded. And how long they</p> <p>2 would keep those, I don't know.</p> <p>3 Q. If you had contact with an inmate during</p> <p>4 that inspection process --</p> <p>5 A. Would it be written down?</p> <p>6 Q. Yes.</p> <p>7 A. No.</p> <p>8 Q. If an inmate raised questions or problems</p> <p>9 with you during that inspection, would that be written</p> <p>10 down?</p> <p>11 A. No.</p> <p>12 Q. And I take it as you sit here today, you</p> <p>13 don't have any specific memory of talking with Charlie</p> <p>14 Davis during an inspection.</p> <p>15 A. I do not have a specific memory of talking</p> <p>16 to Mr. Davis, no.</p> <p>17 Q. You mentioned earlier that you have roughly</p> <p>18 500 inmates at Palmer.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Is that a pretty steady population number?</p> <p>21 A. Let's see. Let's get the actual number,</p> <p>22 since we want to be accurate here. There was 176 and,</p> <p>23 oh, around 250 to 270. What's those two numbers add</p> <p>24 up to? Some math wizzard here.</p> <p>25 Q. Looks closer to four and a quarter to me.</p>
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<p>1 some contact. Because, usually, when you're doing</p> <p>2 your inspections, you know, all the inmates -- they</p> <p>3 call it leg time, you know, that they -- it's, you</p> <p>4 know, how about my furlough? How about this? How</p> <p>5 about that, you know? It's not uncommon to be</p> <p>6 approached by an inmate. And I like to talk to</p> <p>7 inmates and hear their side of things. So whether I</p> <p>8 did with him, I do not know.</p> <p>9 Q. Explain the inspections to me then, so I</p> <p>10 understand that.</p> <p>11 A. An inspection, on Friday, to maintain</p> <p>12 cleanliness in the facility, the superintendent would</p> <p>13 go throughout the entire facility, each and every</p> <p>14 room, and make sure that the cleanliness standards</p> <p>15 were being adhered to.</p> <p>16 And we kind of made a contest out of it. So</p> <p>17 the house that wins gets whatever, you know, ice cream</p> <p>18 or something like this. And it kind of became a</p> <p>19 competitive thing with the inmates, you know, to keep</p> <p>20 their house clean. But an inspection was to go</p> <p>21 throughout the whole facility.</p> <p>22 Q. And I take it there are records kept of</p> <p>23 those inspections. Do you make notes as you're going</p> <p>24 through, anything like that?</p> <p>25 A. Yes. You make notes as you're going</p>	<p>1 A. Okay. Let's say four and a quarter.</p> <p>2 Q. Okay. And 176 and 250 to 270, explain what</p> <p>3 those numbers are.</p> <p>4 A. Okay. One seventy-six was the population at</p> <p>5 the minimum facility. That was capacity. And the</p> <p>6 medium facility could fluctuate.</p> <p>7 Q. Between 250 and 270; is that correct?</p> <p>8 A. That is correct.</p> <p>9 Q. What was capacity for the medium facility?</p> <p>10 A. About 270. That's a difficulty. Because,</p> <p>11 you know, do you count the seg beds? Do you count</p> <p>12 whatever? But actual housing unit beds, about 270.</p> <p>13 Q. And when you say "seg beds," what is that?</p> <p>14 A. Segregation unit, there was ten there. And</p> <p>15 then there's another issue that was the medical</p> <p>16 infirmary. And they had four beds. In Corrections,</p> <p>17 we count beds.</p> <p>18 Q. Okay. How many total beds did you have at</p> <p>19 Palmer? Sounds like about 450.</p> <p>20 A. Yeah, about 450.</p> <p>21 Q. Okay. When an inmate first comes into</p> <p>22 Palmer, do they have any kind of interaction directly</p> <p>23 with you, an interview or anything like that?</p> <p>24 A. No. That's not even real to think that.</p> <p>25 There was a time -- in fact, about this time, the</p>

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<p style="text-align: right;">Page 42</p> <p>1 turnover was like -- the average stay was 15 days.</p> <p>2 Q. At Palmer?</p> <p>3 A. At Palmer at that particular time. It</p> <p>4 was -- it was really busy. And we'd receive 20, 30</p> <p>5 inmates a day. And then -- and they'd be replacing</p> <p>6 inmates who had been furloughed or being released.</p> <p>7 And to see 30 inmates a day and be a superintendent,</p> <p>8 that's not real.</p> <p>9 Q. Why was the turnover so high during that</p> <p>10 time period?</p> <p>11 A. At that particular time, if I remember</p> <p>12 correctly, it's just before the Anchorage Jail opened.</p> <p>13 And we were kind of backed up. And as soon as the</p> <p>14 jail opened, that housing crisis subsided. But this</p> <p>15 is just before it was -- it was the population, the</p> <p>16 prison population was so large.</p> <p>17 Q. Is it fair to say that Palmer at that time</p> <p>18 was being used as a pretrial facility?</p> <p>19 A. There were pretrial inmates at Palmer, but</p> <p>20 we housed them separately. Remember, we had</p> <p>21 individual housing. We would have to house them</p> <p>22 separately.</p> <p>23 Q. Okay.</p> <p>24 A. But yes, we were accepting overflow from the</p> <p>25 pretrial facilities. And that would account for the</p>	<p style="text-align: right;">Page 44</p> <p>1 for you in any way --</p> <p>2 A. (Witness shakes head.)</p> <p>3 Q. -- other than the fact that you're here</p> <p>4 today?</p> <p>5 A. Other than that I'm here today, had to get</p> <p>6 up early, no.</p> <p>7 Q. Explain the grievance process from your</p> <p>8 perspective then to me.</p> <p>9 A. Okay. A prisoner who has a grievance, the</p> <p>10 first thing he does is he files a cop-out, which is an</p> <p>11 informal grievance or an informal request. He has a</p> <p>12 problem. You know, his food wasn't hot enough or</p> <p>13 whatever. So he fills this out. And it goes to the</p> <p>14 staff, who would -- it would be, you know, their</p> <p>15 issue. And they will write on their cop-out and</p> <p>16 return it to him. Okay?</p> <p>17 If he's not satisfied with that, then his</p> <p>18 next step would be a grievance. And he would complete</p> <p>19 the grievance. The grievance monitor or compliance</p> <p>20 sergeant would pick up this grievance. The grievance</p> <p>21 is logged. And then the compliance sergeant would</p> <p>22 assign an investigator to the grievance.</p> <p>23 In a case of a medical grievance, it would</p> <p>24 go to medical staff. None of the COs could address</p> <p>25 these medical issues. So it would go to the medical</p>
<p style="text-align: right;">Page 43</p> <p>1 high turnover.</p> <p>2 Q. That was what I was wondering. I mean, when</p> <p>3 you were talking about 15 days, that doesn't seem --</p> <p>4 A. It was just -- it was just wild.</p> <p>5 Q. At some point Mr. Davis filed a grievance,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you were involved in that grievance</p> <p>9 process in some way?</p> <p>10 A. I am the one, as the acting superintendent,</p> <p>11 who would look at the investigator's findings and then</p> <p>12 make my comments before it's returned to the inmate.</p> <p>13 Q. Would that be true for all grievances?</p> <p>14 A. Yes.</p> <p>15 Q. How many grievances do you typically</p> <p>16 process?</p> <p>17 A. Oh, there are some inmates that will file</p> <p>18 one every day. There's some inmates that will file</p> <p>19 three a day. And you take 400 inmates, you know, it's</p> <p>20 really -- two or three inmates can file 15 grievances</p> <p>21 a day.</p> <p>22 But as a rule, we didn't have that many.</p> <p>23 Probably -- seems like I'd probably look at ten, maybe</p> <p>24 ten a month.</p> <p>25 Q. Okay. Does Mr. Davis' grievance stand out</p>	<p style="text-align: right;">Page 45</p> <p>1 staff. They would address the grievance. And there's</p> <p>2 a time frame in here. And I couldn't recall what</p> <p>3 these time frames are. But there's time frames that</p> <p>4 we have to respond and get the grievance back to the</p> <p>5 prisoner.</p> <p>6 Then the grievance goes -- after the</p> <p>7 investigation, the compliance sergeant picks it up.</p> <p>8 He brings it to me. And then from there, the prisoner</p> <p>9 will look at the grievance and he's satisfied -- you</p> <p>10 know, it may be something that -- you know, a lot of</p> <p>11 them are frivolous, you know, and it doesn't go</p> <p>12 anywhere. But there's some that, well, maybe we</p> <p>13 should look at this. So changes would be made or</p> <p>14 whatever. Or a particular inmate's issue is</p> <p>15 addressed.</p> <p>16 The inmate will review the grievance after</p> <p>17 everyone has done their thing. And he will either,</p> <p>18 I'm satisfied, or he wishes to appeal what we have</p> <p>19 stated. And if he wishes to appeal, then an appeal</p> <p>20 statement is filed to the director, or in the case of</p> <p>21 medical, to the medical people at Central Office. And</p> <p>22 then they would make their ruling or investigation,</p> <p>23 whatever you choose to call it. And then it would</p> <p>24 come back to the prisoner.</p> <p>25 If the prisoner is still unhappy with this,</p>

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1 **thus we're here. It goes to court. He can go to**  
 2 **court with it.**  
 3 Q. So your involvement in the process would be  
 4 after the grievance is filed, beyond the cop-out  
 5 stage, right?  
 6 A. Uh-huh.  
 7 Q. So if the cop-out resolves it, you don't get  
 8 involved at all.  
 9 A. Exactly. If the prisoner is happy and  
 10 something was wrong, it's fixed, all is good.  
 11 Q. If it goes to the grievance, you review  
 12 every grievance that's filed.  
 13 A. I review every grievance that's filed, yes.  
 14 Q. And the compliance officer would be the one  
 15 who would assign it in the initial instance for  
 16 investigation.  
 17 A. Right.  
 18 Q. Right? Do you remember, as you sit here  
 19 today, your involvement in Mr. Davis' grievance?  
 20 A. I -- I -- I remember, you know, when I seen  
 21 the grievance, I -- I remember the grievance. And,  
 22 you know, a lot of times, you'll deal with the  
 23 grievance or whatever, the responses are made, it's  
 24 all resolved and you've never seen the inmate. You're  
 25 dealing with a piece of paper.

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1 Q. So in terms of your specific memory today,  
 2 you remember that there was a grievance. Do you  
 3 remember the specifics of it at all?  
 4 A. Well, I've looked at the grievance recently.  
 5 That could cloud my -- but I think I do remember the  
 6 grievance.  
 7 Q. Okay. When did you look at the grievance  
 8 recently?  
 9 A. Actually, when I received this to sign, I  
 10 started looking to find out what in the world have I  
 11 done, you know. And I probably looked at it then.  
 12 And then -- and then I thought this was resolved. And  
 13 so then I've looked at it again recently in the last  
 14 couple days, because we're here.  
 15 Q. Just so that I'm clear, you were pointing at  
 16 some papers. So you looked at the grievance, it looks  
 17 like, around the time that you signed the  
 18 interrogatory responses in January of 2005.  
 19 A. Correct.  
 20 Q. And then more recently, just in getting  
 21 ready for the deposition.  
 22 A. Uh-huh.  
 23 Q. Is that right?  
 24 A. That is correct.  
 25 (Exhibit 4 was marked.)

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1 MR. MATTHEWS: Let me show you what we've  
 2 marked as Exhibit 4.  
 3 THE WITNESS: Can we take a short break  
 4 before we go on to Exhibit 4?  
 5 MR. MATTHEWS: Sure. Off record.  
 6 MS. KAMM: I could use a break, too.  
 7 (Brief recess.)  
 8 BY MR. MATTHEWS:  
 9 Q. We've put in front of you, Mr. Hyden,  
 10 Exhibit 4. Ask you if you recognize that document.  
 11 A. Okay. Yeah. Exhibit 4 is the grievance  
 12 filed by Charlie Davis.  
 13 Q. And this exhibit consists of four pages,  
 14 which I think is taken from the entire grievance  
 15 packet. What I want to see if I can understand is  
 16 what your part in that grievance was.  
 17 A. Okay. Briefly, the prisoner writes down his  
 18 grievance, which he -- he has done so. And then he  
 19 requests what his relief is. And he has done so.  
 20 It's dated and it's signed. And then Mr. -- or the  
 21 compliance sergeant would assign it to someone to  
 22 investigate.  
 23 In this case, it appears it had been  
 24 assigned to Mr. Hale. And Roger Hale had -- what it  
 25 states is "The issue of manning/staffing cannot be

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1 addressed at this level. I spent about 20 minutes  
 2 explaining how he can access medical (that is not  
 3 (sic) available at PCC)." And that was Mr. Hale's  
 4 response.  
 5 After Mr. Hale would have responded, the  
 6 compliance sergeant would get the grievance and bring  
 7 it to me for my review. And I would review the  
 8 grievance, look at Mr. Hale's response and then write  
 9 down my findings.  
 10 I'm not a medical person. I have to depend  
 11 heavily on what medical tells me. So thus, I wrote  
 12 "The above investigation does not address the  
 13 prisoner's grievance. Perhaps prisoner should be  
 14 transferred to facility with full time medical staff  
 15 to accommodate 'life threatening' condition." That  
 16 was my response.  
 17 And then after that, the prisoner would  
 18 review it. Now, this grievance has some alter- -- is  
 19 altered to the one that I had. Whether he was  
 20 satisfied, et cetera, is not on the one I have. And  
 21 the last block where it says I am satisfied with  
 22 response or not, this one is not completed at all.  
 23 Q. And you're looking at the second page of  
 24 Exhibit --  
 25 A. The second page, right.

13 (Pages 46 to 49)

Exhibit 12  
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1 Q. -- of Exhibit 4, the bottom block that says  
2 "Prisoner's Response"?

3 **A. Right.**

4 MR. MATTHEWS: I don't have the original of  
5 this, so --

6 MS. KAMM: I think I've got the original.  
7 I'll take a look at it when I get back to the office.

8 MR. MATTHEWS: Okay.

9 MS. KAMM: I'll fax it to you if we've  
10 got --

11 THE WITNESS: And I would have to assume the  
12 original is going to be checked, I do intend to appeal  
13 to the Director of Institutions or Medical Director,  
14 which that was done. And then page three of what  
15 we're looking at here is the Prisoner Grievance Appeal  
16 Statement. And this would be what the prisoner wrote  
17 to the medical director. And then the medical  
18 director's response is the last page.

19 BY MR. MATTHEWS:

20 Q. Okay. Is it fair for me to conclude that  
21 your involvement, your specific involvement in this  
22 grievance, would have been to review Mr. Hale's  
23 findings and determination and to sign off on the  
24 grievance as you did on the second page?

25 **A. That is correct.**

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1 Q. You made the comments that the investigation  
2 did not address the grievance and perhaps he should be  
3 transferred to a different facility, right?

4 **A. Correct.**

5 Q. Beyond that, did you have any involvement in  
6 this grievance?

7 **A. None.** Now, there could have been a time  
8 when in one of these meetings, Mr. Davis' issues, I  
9 would have been made aware of his issues. Probably --  
10 I don't know when the time frame was when I was made  
11 aware of his -- if I receive a prisoner at medium, I'm  
12 not aware that he has a bypass or a defibrillator or  
13 anything of this nature until someone makes me aware  
14 of it. And I would assume that probably about the  
15 time this grievance was filed is when I would have  
16 been made aware of Mr. Davis' issues with medical.

17 Q. Is it fair to say that Mr. Davis' grievance  
18 was for inadequate medical care?

19 **A. I -- I disagree with that.**

20 Q. You disagree that that's what he was  
21 complaining about?

22 **A. Say the question again. Maybe I**  
23 **misunderstood you.**

24 Q. Is it fair to say that Mr. Davis' grievance  
25 was essentially that he didn't like the medical care

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1 he was getting at Palmer, didn't think it was  
2 adequate?

3 **A. He -- he probably thought that, yes.**

4 Q. Okay. I'm not asking whether you agree that  
5 the care --

6 **A. Okay. Yes.**

7 Q. -- was inadequate.

8 **A. Because in my opinion, the grievance is very**  
9 **confusing. Okay?**

10 Q. All right. Let me ask you this then: How  
11 did you interpret Mr. Davis' grievance when you  
12 received it?

13 **A. Well, I read it and I was like -- I**  
14 **really -- you know, because there's a number of things**  
15 **you could read into this. And I read it. And then I**  
16 **read what Mr. Hale had -- you know, who had talked to**  
17 **him for several minutes. And I -- I thought -- I**  
18 **thought Mr. Hale should have been a little more**  
19 **specific in these times, actually put something**  
20 **specific down here. This is the reason that I wrote**  
21 **what I wrote.**

22 **To me as a superintendent, to say I spent 20**  
23 **minutes how he could access medical in a document like**  
24 **this, I would like to see written out, you do this,**  
25 **you do this, you do this and you do this. Okay? And**

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1 **that wasn't done. So that was thus part of my**  
2 **response.**

3 Q. Your conclusion was that the -- that  
4 Mr. Hale's response was inadequate.

5 **A. Yes. I wanted him to give -- because if a**  
6 **prisoner files a grievance -- and I might add here, I**  
7 **was the compliance sergeant at Mat-Su Pretrial and**  
8 **dealt with these regularly. So I'm very familiar with**  
9 **the grievance process.**

10 **I just really like -- when an inmate is**  
11 **upset enough to file a grievance, address his issues.**  
12 **If they're frivolous, they're frivolous. But address**  
13 **his issues in that grievance. And I just would like**  
14 **to have seen specific things written out, you know,**  
15 **rather than I spent 20 minutes talking to him.**

16 Q. You didn't feel Mr. Hale's response  
17 addressed the grievance; is that true?

18 **A. That's what I felt at the time, yes.**

19 Q. And your suggestion was that perhaps  
20 Mr. Davis should be transferred to a different  
21 facility that had full-time medical care to  
22 accommodate his life-threatening condition.

23 **A. Possibly. And I put life-threatening**  
24 **because -- and I'm going to assume here that at that**  
25 **time I wasn't totally aware of Mr. Davis' issue,**

14 (Pages 50 to 53)



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<p style="text-align: right;">Page 54</p> <p>1 because I put life-threatening in parentheses -- or 2 quotation marks. 3 But actually, basically, I'm probably 4 inviting medical to look at this. And if this inmate 5 really feels this strongly, does he need to go to the 6 Anc Jail where there's a medical unit or something. 7 And if they feel he does not, they're the medical 8 staff. I'm not. It's their call. 9 Q. So once you make the suggestion that the 10 investigation that had been done to that point was 11 inadequate, does it go back to Mr. Hale for further 12 findings? 13 A. No. 14 Q. Why not? 15 A. Because in the process, it goes to 16 Mr. Hale's boss, the medical director. If what you 17 just asked, grievances would be bouncing around all 18 the time and we'd never get anywhere. So there has to 19 be a click, click, click, you know, the grievance 20 process is this. So, you know, it goes to Mr. Mel 21 Henry in this particular case. And then he gets the 22 final medical word on it. 23 Q. So whose decision is it to -- as to whether 24 or not Mr. Davis stays at Palmer or is transferred to 25 another facility?</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Did you know what response was made to 2 Mr. Davis' grievance after you signed off on it on 3 June 27th, '02? 4 A. To be honest with you, I can't tell you 5 whether I reviewed this when it came back or not. I 6 do not know. 7 Q. And you're talking about the appeal portion. 8 A. The appeal from Mr. Mel Henry. 9 Q. So once Mr. Davis files his grievance, you 10 make your findings and recommendation, off it goes to 11 medical and you're done with it; is that fair? 12 A. In a medical situation, yes. 13 Q. You don't have any practice of following up 14 to see whether or not your recommendations or 15 suggestions were followed. 16 A. If I -- I would have a practice of doing so 17 if I felt it was warranted. 18 Q. Do you know -- 19 A. If I feel medical has this under control -- 20 because they're the medical professionals. I'm not. 21 I have to trust them. If they tell me everything is 22 okay, inmate's needs are being met, they are the 23 medical professionals. I'm not. I can't second guess 24 them. 25 Q. Did you get a report back from medical on</p>
<p style="text-align: right;">Page 55</p> <p>1 A. Okay. It would be my decision if it was a 2 security issue. Okay? If -- for example, if 3 Mr. Davis is beating up other inmates or doing 4 whatever and we find that in that particular 5 environment he cannot be controlled adequately, that 6 would be a security issue. And that would -- I 7 would -- you know, we need to look at classifying him 8 to a more secure setting. 9 In an issue with medical, I'm not a medical 10 person. I can't set here and say, well, I think his 11 medical issues are whatever. Transfer him. He would 12 be transferred by the medical people and it would be a 13 medical transfer. 14 Q. So essentially, once you're done with this 15 grievance, you're done. 16 A. I'm done. 17 Q. Because it's a medical grievance. 18 A. I'm done. And I wanted them to look at it 19 carefully. Make sure you make the right decision. 20 And I'm done. 21 Q. Did you ever follow up to see what action 22 had been taken? 23 A. I was too busy. 24 Q. So I take it that's a no. 25 A. That's a no.</p>	<p style="text-align: right;">Page 57</p> <p>1 Mr. Davis after that? 2 A. I don't recall. 3 Q. Do you know whether or not Mr. Davis felt 4 that his medical needs were being met after this 5 grievance was filed? 6 A. I didn't hear anything else about it, to my 7 recollection. So I have to assume that he was okay. 8 Q. Mr. Davis was 70 years old at the time this 9 grievance was filed? 10 A. Okay. 11 Q. Do you know? 12 A. I don't have a clue. 13 Q. Any idea how old he was? 14 A. I thought he was about 45. 15 Q. The individual that you described earlier 16 with the cane in the yard appeared to you to be about 17 45? 18 A. It's so long ago. He didn't seem to be 70 19 years old, if it's the person I'm thinking of. 20 Q. When Mr. Davis arrived in Palmer, at PCC, he 21 had an implanted defibrillator. Were you aware of 22 that? 23 A. No. There would be a point in time when I 24 would be aware, but it wouldn't be at his arrival, no. 25 Q. Were you aware of that at the time he filed</p>

15 (Pages 54 to 57)

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<p>1 his grievance?</p> <p>2 A. Seems like it states so in the grievance.</p> <p>3 And what kind of briefing I could have had from</p> <p>4 medical regarding this, you know -- because I feel</p> <p>5 certain that medical talked to someone, probably in</p> <p>6 one of these meetings, about this individual and</p> <p>7 closely monitoring him. But I can't -- it's been too</p> <p>8 far back. I can't recall.</p> <p>9 Q. When you say "these meetings," are you</p> <p>10 talking about your daily briefings?</p> <p>11 A. Correct.</p> <p>12 Q. Prior to Mr. Davis' grievance, did you know</p> <p>13 what an implanted defibrillator was?</p> <p>14 A. Uh-huh.</p> <p>15 Q. And how did you have that knowledge?</p> <p>16 A. My ex-wife was a nurse. I knew quite a bit</p> <p>17 about that.</p> <p>18 Q. Did you understand that a person with an</p> <p>19 implanted defibrillator by definition had a serious</p> <p>20 heart condition?</p> <p>21 A. Well, I would say my medical knowledge, I</p> <p>22 have no formal training in medical. I -- I can't say</p> <p>23 that I would understand anything about medical. I</p> <p>24 haven't been trained in any medical other than CPR and</p> <p>25 whatever. But vaguely, yeah, you'd have to assume if</p>	<p>1 medical record.</p> <p>2 Q. Do you know whether or not you called PA</p> <p>3 Hale --</p> <p>4 A. Don't recall.</p> <p>5 Q. -- in response to this grievance?</p> <p>6 A. I feel that we probably had some</p> <p>7 conversations regarding this individual, strictly</p> <p>8 because of the grievance and it's medical. But I</p> <p>9 can't recall those. It's been too long and too many</p> <p>10 inmates. And I mean, I can't -- I can't specifically</p> <p>11 remember.</p> <p>12 Q. Would your actions or conversations with</p> <p>13 Mr. Hale have been documented in any way?</p> <p>14 A. Probably the only documented thing would be</p> <p>15 the morning meetings. I can't -- every time I talk to</p> <p>16 someone about an inmate's hangnail, I don't go</p> <p>17 document that. That's just not real. I know what</p> <p>18 you're asking, you know, but it's -- no, it wouldn't</p> <p>19 have been documented other than what I would have</p> <p>20 wrote here. You know, if I called him prior to</p> <p>21 writing this -- and I don't remember a conversation.</p> <p>22 I'm sure there probably could have been one, but it's</p> <p>23 just too long ago and too much has happened.</p> <p>24 Q. So you just don't remember at this point.</p> <p>25 A. I don't remember at this point.</p>
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<p>1 someone has something placed in their chest, yeah,</p> <p>2 it's serious.</p> <p>3 Q. Fair to say they would not have had the</p> <p>4 implant if it weren't serious?</p> <p>5 A. But also, I know people that have implants</p> <p>6 and they're out working jobs and stuff and everything</p> <p>7 is hunkey dorey. And they're doing whatever. So once</p> <p>8 again, I'm not a medical staff. I don't know what</p> <p>9 limitations a defibrillator could have. There's --</p> <p>10 because I know a couple people with these kind of</p> <p>11 things and they're living pretty much normal lives.</p> <p>12 So I can't second guess that, no.</p> <p>13 Q. Let me ask you this: At the time Mr. Davis</p> <p>14 filed his grievance, did you have any personal</p> <p>15 knowledge of what his medical condition was?</p> <p>16 A. At the time he filed the grievance, probably</p> <p>17 not.</p> <p>18 Q. In your response to his grievance, did you</p> <p>19 review any of his medical records to see what his</p> <p>20 condition was?</p> <p>21 A. I did not look at a medical record. What I</p> <p>22 would probably do if I did so, something of that</p> <p>23 nature, would be to call a PA, ask specific questions</p> <p>24 for specific answers, you know. And I would be much</p> <p>25 clearer on what I understood rather than go look at a</p>	<p>1 Q. Is it fair to say, Mr. Hyden, that after</p> <p>2 your written response to this grievance, you don't</p> <p>3 have any memory of taking any other action with regard</p> <p>4 to Charlie Davis?</p> <p>5 A. None.</p> <p>6 Q. Do you remember having any further contact</p> <p>7 with a PA to inquire about Mr. Davis' status?</p> <p>8 A. I don't recall anything.</p> <p>9 Q. Do you remember contacting anyone else on</p> <p>10 the medical staff to find out how Mr. Davis was doing?</p> <p>11 A. No. That's something that if there's a</p> <p>12 problem, they would come to me, you know. I can't --</p> <p>13 Q. Is it fair to say that unless a problem is</p> <p>14 brought to your attention, it's not something you're</p> <p>15 going to go seek out?</p> <p>16 A. Exactly.</p> <p>17 Q. So follow-up would not have been part of</p> <p>18 your routine.</p> <p>19 A. No. If they was having a problem or</p> <p>20 something, they would probably get ahold of me,</p> <p>21 et cetera. But to sit there and think, I wonder if</p> <p>22 this is working out, I should go check on this, you</p> <p>23 know, you may have all kinds of things going. No, I</p> <p>24 don't think I would have -- I would have waited for</p> <p>25 them, you know, to give me some kind of indication</p>

16 (Pages 58 to 61)

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<p>1 you know at 10:00 o'clock, I have to get my meds, 2 there's also what we call the boombox where master 3 control, you get on the big speaker and you go, you 4 know, meds are being passed at this time. And I mean, 5 everybody can hear it. 6 Now, if the prisoner doesn't show up, he 7 doesn't get his meds. Now, if it's something that's 8 life-threatening that he needs to have -- and I have 9 seen this happen -- medical would put him into medical 10 seg to assure that they could monitor him and he'd get 11 his meds. 12 Q. Okay. 13 A. Now, if you -- you know, if it was your 14 stomach medicine or something, you know, whatever -- I 15 mean, this would be something, you know, it's 16 important you get this. This is life-threatening. 17 And they would take those steps to make sure he got 18 his meds. And I would sign off on the seg admission 19 as superintendent. 20 Q. And just so that I'm clear, when you're 21 talking about a seg admission, segregation? 22 A. Yes. And that's not the proper term. It 23 would be actually placed in the infirmary. You know, 24 it's just old habit. You'd call it medical seg. 25 And to my knowledge, Mr. Davis was never</p>	<p>1 Q. That's a unique situation, right? 2 A. Yes, that's unique. 3 Q. You'd want to make sure -- 4 A. We've had -- I mean, it's not the first one. 5 There's been people through there with pacemakers, 6 et cetera. So -- but, you know, the staff need to be 7 aware there's special needs here. 8 And I can't recall specifics, but I do 9 recall that in these morning meetings, medical -- I do 10 recall them, you know, frequently telling us about, 11 you know, specific inmates and specific problems, 12 et cetera. The exact context regarding Mr. Davis, I 13 can't recall. 14 Q. You would agree, Mr. Hyden, that an inmate 15 that comes into your facility with an implanted 16 defibrillator has special needs? 17 A. Uh-huh. 18 Q. That's what you just said, right? I need 19 you to answer out loud. Sorry. 20 A. Oh, yes. It's unusual and it should -- it's 21 special, yes. 22 Q. You would also agree, I take it, that PCC 23 had an obligation to make sure his necessary medical 24 care was taken care of. 25 A. Oh, I don't know that it wasn't. He feels</p>
Page 71	Page 73
<p>1 placed in medical seg. So I was not aware that there 2 was any issues beyond these. 3 Q. And I take it you're not aware of any 4 situation where Mr. Davis showed up for med line and 5 was denied his medication. 6 A. I would fire the officer. Or if I couldn't 7 fire him, I'd do my best. 8 Q. That would be a very serious issue to you? 9 A. Absolutely. 10 Q. Do you know how long Mr. Davis was actually 11 at Palmer? 12 A. Haven't got a clue. 13 Q. Do you know whether or not Mr. Davis' 14 medical condition was ever mentioned in one of your 15 daily briefings? 16 A. I would -- I would assume and feel certain 17 that it would be mentioned. You know, staff need to 18 be made aware -- if you have a prisoner like this in 19 the population, there needs to be an awareness that 20 that person exists. And I feel certain that if you 21 look at those records, you'll see that somewhere. 22 Q. When you say "a person like this," a person 23 with Mr. Davis' medical condition, is that what you 24 mean? 25 A. Somebody with a defibrillator, yes.</p>	<p>1 it wasn't. Mr. Davis -- you know, I'm not being smart 2 here. He's still doing fine, to my knowledge. I 3 don't know that anything was done there that was 4 detriment to his health. I don't know that as a 5 non-medical person. 6 Q. You would agree that he -- his medical care 7 needed to be attended to while he was at Palmer, 8 correct? 9 A. Yes. 10 Q. And because of the fact that he had an 11 implanted defibrillator, his medical needs were 12 different than the average population up there, true? 13 A. Absolutely. 14 Q. It would be essential to make sure that any 15 prescribed medications were given to him, right? 16 Correct? You need to answer out loud. 17 A. Once again, that depends on the medicine. I 18 have inmates that come in, hey, I had a doctor that 19 ordered me OxyContin ten years ago. And the thing 20 still goes. I want this. Then the inmate files a 21 grievance, I'm not getting my OxyContin. And the 22 medical staff we had, no, you don't need that. You're 23 not getting that. 24 So it's not an exact answer. You'd have to 25 be more specific. Which medications, you know? And</p>

19 (Pages 70 to 73)

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1 once again, I'm not that familiar with medications,  
 2 because I'm not a medical person.  
 3 Q. Are you familiar with a medication called  
 4 Coumadin?  
 5 A. Explain it to me. Make me familiar with it.  
 6 I'm not -- I'm not that clear on it, no.  
 7 Q. I'm just asking what knowledge you have.  
 8 A. No. I have to trust my medical staff.  
 9 That's all I have.  
 10 Q. Okay. Is the medication Coumadin something  
 11 that your medical staff had made you aware of prior to  
 12 Mr. Davis?  
 13 A. I can't recall that specifically.  
 14 Q. You would agree with me, Mr. Hyden, that if  
 15 Mr. Davis was prescribed Coumadin in order to make  
 16 sure that his heart condition was kept under control,  
 17 that PCC should make sure he got his Coumadin?  
 18 A. I would say so, yes.  
 19 Q. Your staff and the medical staff, right?  
 20 A. I -- I would say so.  
 21 Q. Would you also agree that if there were  
 22 testing that were prescribed for Mr. Davis, medical  
 23 testing while he was at PCC, that he should get that?  
 24 A. Who prescribed it, the medical staff at  
 25 Palmer or a doctor two or three years ago? I mean --

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1 Q. Let's talk about -- how about if it's a  
 2 doctor who gave a prescription for medical testing  
 3 immediately before he was taken into State custody?  
 4 A. I would say that there's a need for  
 5 monitoring. Okay? How much and when, I'm not a  
 6 medical person. I don't know the answer to that.  
 7 Q. If that situation were presented to you  
 8 where an inmate has a prescription for certain testing  
 9 that's to be done on a regular basis and he provides  
 10 that prescription to correctional personnel, do you  
 11 think that prescription should be taken into account?  
 12 A. I'm not a medical person. I can't  
 13 accurately answer that. There's no way.  
 14 Q. That's a better question for Mr. Henry?  
 15 A. Exactly. I mean, I could spout off the top  
 16 of my head. That don't make it so.  
 17 Q. From what I hear you saying this morning,  
 18 medical decisions really were out of your area; is  
 19 that true?  
 20 A. Largely, yes. They're within the confines  
 21 of the medical expertise. For me to go dabbling in  
 22 medical's affairs and tell them to do this and do  
 23 that, I have no formal training. That's a lawsuit  
 24 waiting to happen, so no.  
 25 Q. So you stay out of it.

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1 A. I -- I -- well, you know, you monitor to a  
 2 degree, as we have here, but you have to depend on the  
 3 experts, which I was doing. And based on what I had,  
 4 you know, I felt everything was -- aware of his  
 5 situation, but I felt everything was under control.  
 6 Q. Do you know whether Mr. Davis was given any  
 7 different treatment than anyone -- than the typical  
 8 prisoner because of his heart condition?  
 9 A. I -- I would say that he probably had way  
 10 more treatment than the average prisoner because of  
 11 this situation. And -- but once again, I don't know  
 12 that for a fact.  
 13 Q. Is it correct to say that it's -- at least  
 14 in your eyes, it's really the prisoner's  
 15 responsibility to go ask for medical care as opposed  
 16 to the other way around?  
 17 A. In some cases. Not in all.  
 18 Q. How about in Mr. Davis' case?  
 19 A. To go ask for care?  
 20 Q. Yes.  
 21 A. He can ask for anything. I think the State  
 22 bears some responsibility to Mr. Davis to follow up  
 23 and make sure that he maintains, you know, his health.  
 24 What that -- what that would incur, you know, that's  
 25 medical personnel that have to do that. But I feel,

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1 yes, they need to maintain his health.  
 2 When he comes to us, you know, I think in  
 3 his case, what usually happened -- and I'm not going  
 4 to be specific to Mr. Davis, because I can't recall  
 5 specific issues. But if you had a special needs  
 6 inmate, he would be seen more by medical. He would be  
 7 seeing these contract physicians that came in. He  
 8 would be taken on medical transportation to see  
 9 medical doctors in different places. He would be  
 10 paged to report to medical for different things.  
 11 If he wasn't receiving medication, like  
 12 apparently that's what this is saying, I feel  
 13 certain -- or as a rule, medical would page him and,  
 14 you know, what's the problem here, et cetera. But  
 15 specifically, I can't say in Mr. Davis' case how  
 16 much -- where he went or how many doctors seen him.  
 17 You know, I don't know.  
 18 Q. Do you know whether or not any medical  
 19 doctors saw Mr. Davis while he was incarcerated at  
 20 Palmer?  
 21 A. I'd bet everything on it, but I don't know.  
 22 Q. Given what you know about it, you would  
 23 expect that he would have seen a medical doctor --  
 24 A. Right.  
 25 Q. -- while he was at Palmer.

Exhibit 12  
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20 (Pages 74 to 77)